

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Keith Daniel,)	Case No. 9:22-cv-03285-DCC
)	
Petitioner,)	
)	
v.)	ORDER
)	
Kenneth Nelson,)	
)	
Respondent.)	
)	

Petitioner, proceeding pro se, is seeking habeas corpus relief pursuant to 28 U.S.C. § 2241. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Molly H. Cherry for pre-trial proceedings and a Report and Recommendation (“Report”). On November 10, 2022, the Magistrate Judge directed Petitioner to provide certain documents to bring this action into proper form for further evaluation. ECF No. 3. Petitioner did not respond to the Order. On December 22, 2022, the Magistrate Judge issued a Report recommending that the Petition be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) and without requiring Respondent to file a Return. ECF No. 6. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Petitioner has filed no objections, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

Accordingly, after considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Therefore, the Petition is **DISMISSED** without prejudice pursuant to Federal Rule of Civil Procedure 41(b) and without requiring Respondent to file a Return.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

June 5, 2023
Spartanburg, South Carolina